

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION**

CLAYTON BEASON,)	
)	
)	
Plaintiffs,)	
)	Civil Action No.: <u>6:17-cv-00722-MGL</u>
v.)	
)	
GREENVILLE COUNTY, CLEAR SPRING)	
FIRE DISTRICT, and GABE MULL, in his)	
individual capacity,)	
)	
Defendants.)	
_____)	

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1441, Defendants Clear Spring Fire District and Gabe Mull, (“Defendants”), by and through their undersigned counsel, files this Notice of Removal to the United States District Court for the District of South Carolina, Greenville Division. Removal is proper based on the following grounds:

BACKGROUND

1. On February 13, 2017, Plaintiff Clayton Beason, (“Plaintiff”) commenced this action by filing a Summons and Complaint in the Court of Common Pleas for Greenville County, Civil Action No. 2017-CP-23-00921.

2. On February 16, 2017, Defendants’ counsel accepted service of a copy of the Summons and Complaint. A true and accurate copy of the Summons and Complaint served to Defendants, and the Acceptance of Service filed by Defendants is attached hereto as **Exhibit A**. Accordingly, this Notice of Removal has been timely filed within thirty (30) days of Defendants’ receipt of the Complaint as required by 28 U.S.C. §1446(b).

3. To date, Defendant Greenville County has not been served with a copy of the Summons and Complaint or made an appearance in this matter.

4. Defendants' Acceptance of Service, and the Summons and Complaint constitute all of the process, pleadings, and orders served upon Defendants in this action. Defendants have not filed any pleadings or otherwise appeared in the Court of Common Pleas in this action.

5. Attached as **Exhibit B** is a copy of Defendants' Notice to State Court of Notice of Removal, which will be filed promptly with the Court of Common Pleas as required by 28 U.S.C. § 1446(d).

FEDERAL QUESTION JURISDICTION

6. In his Complaint, Plaintiff asserts three causes of action for alleged violation of the State and Federal Constitution ("Constitution"), 42 U.S.C. § 1983, the South Carolina Payment of Wages Law, and the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201.

7. Pursuant to 28 U.S.C. § 1331, this Court has federal question jurisdiction over this action because the claims arising under federal law, namely the U.S. Constitution and the FLSA, as asserted by Plaintiff in this action, are federal causes of action over which this Court has original federal question jurisdiction. 28 U.S.C. §1331. Thus, this action may be removed on the basis of federal question jurisdiction pursuant to 28 U.S.C. § 1441(a).

8. Pursuant to 28 U.S.C. § 1367(a), this Court has supplemental jurisdiction over Plaintiff's claim because this claims arising under state law because they are so related to the remaining claims in this matter that they form part of the same case or controversy.

PROCEDURAL ALLEGATIONS

9. Removal to this Court is proper pursuant to 28 U.S.C. § 1446(a) because it is in the district and division embracing the place where the state court action is pending.

10. In accordance with 28 U.S.C. §1446(d), a copy of this Notice will be filed with the Clerk of Court for the Greenville County Court of Common Pleas and served upon Plaintiffs promptly after the filing of the original Notice of Removal in this action.

11. Defendants submit this Notice of Removal without waiving any defenses to the claims asserted by Plaintiffs and without conceding that Plaintiffs have alleged claims upon which relief can be granted.

12. This Notice is signed pursuant to Rule 11 of the Federal Rules of Civil Procedure.

WHEREFORE, take notice that Defendants hereby remove the above-entitled action from the Court of Common Pleas for Greenville County, South Carolina to the United States District Court for the District of South Carolina, Greenville Division.

Respectfully submitted this 16th day of March, 2017.

By: s/ Sandi R. Wilson

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ATTORNEYS FOR DEFENDANTS CLEAR
SPRING FIRE DISTRICT AND GABE MULL

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FOR THE DISTRICT OF SOUTH CAROLINA
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CLAYTON BEASON,

Plaintiffs,

v.

GREENVILLE COUNTY, CLEAR SPRING
FIRE DISTRICT, and GABE MULL, in his
individual capacity,

Defendants.

Civil Action No.: 2017-CP-23-00921

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served via U.S. Mail, and filed via ECF this 16th day of March, 2017, which automatically sends electronic notice to:

Brian Murphy, Esq.
Stephenson & Murphy, LLC
207 Whitsett Street
Greenville, SC 29601

By: s/ Sandi R. Wilson

This 16th day of March, 2017.